



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

October 28, 2013

Ms. Natalie Barnhart, P.E.
Chief Engineer
DelDOT
800 Bay Road
Dover, DE 19903

Subject: US 113 North/South Study, Millsboro-South Area Draft Environmental Impact Statement, Sussex County, Delaware. CEQ#20130243

Dear Ms. Barnhart:

In accordance with Section 102(2) (c) of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2) (c), Section 309 of the Clean Air Act, 42 U.S.C. § 7609, and the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, the United States Environmental Protection Agency (EPA), has reviewed the Draft Environmental Impact Statement (DEIS) for the above referenced project.

As you are aware, the Millsboro-South Study's main objective is corridor preservation for future expansion of US 113 from Millsboro, DE, to just south of the Maryland/Delaware state line. The Millsboro-South Study is a portion of the larger US 113 North/South Study which comprises the corridor starting with Milford, DE south to the Millsboro-South Study area. In both studies the primary needs for the project is to accommodate existing and future development, preserve and enhance transportation safety issues, preserve the transportation corridor, respect modal interrelationship and to provide for consistency with Federal, state and local plans for transportation systems.

During the last ten years of project development, Delaware Department of Transportation (DelDOT) has worked extensively with the resource agencies including US Army Corps of Engineers, US Fish and Wildlife Service, Delaware Department of Natural Resources and Environmental Control, Delaware Department of Agriculture, Delaware State Historic Preservation Office, Delaware Office of State Planning and the Environmental Protection Agency (EPA). During this period the resource agencies have worked with DelDOT to avoid, minimize and mitigate the potential environmental impacts associated with the project. Over 35 meetings, field visits and tours were held in order to move the project forward. Further, in order to inform and to receive public input into the project, DelDOT has created local working groups,

stakeholder listening tours, public workshops and open houses, mass mailings notices and the establishment of a project website. This collaborative approach has provided an opportunity to address many of the environmental issues early in the project development.

As a way of evaluating NEPA projects, EPA has developed a set of criteria for rating draft Environmental Impact Statements. The rating system provides a basis upon which EPA makes recommendations to the lead agency. Based on this rating system, EPA has rated the US 113 North/South Study, Millsboro-South Area DEIS as an Environmental Concerns 2 (EC-2). An EC rating means the review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. The numeric rating assesses the adequacy of the Environmental Impact Statement. The 2 rating indicates that the DEIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment. A copy of our rating system is attached, and can also be found at:

<http://www.epa.gov/compliance/nepa/comments/ratings.html>. The identified additional information, data, analysis, or discussion should be included in the Final EIS. The basis for this rating is reflective in the comments below:

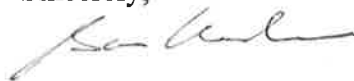
1. In the Executive Summary, Part F (Summary of Potential Impacts), the DEIS should include a discussion of the impacts of PM_{2.5} emissions, sulfur dioxide emissions, and NO_x and Green House Gas (GHG) emissions.
2. In Section 3.7.3 (Mobile Source Air Toxics) of the document, under the "Affected Environment" subsection, describes a detailed microscale analysis that was performed. The DEIS should include further discussion of the mechanisms of the analysis that was utilized. For example if a model was utilized, then the name of the model should be provided along with the inputs into the model and how the model works.
3. In Section 3.11 (Climate Change), the DEIS should provide an analysis regarding the impacts of GHG emissions for this project. We recommend the analysis should consider the February 18, 2010 Council for Environmental Quality memorandum to federal facilities, from Nancy H. Sutley, Chair, CEQ regarding, "Draft NEPA Guidance On Consideration Of The Effects Of Climate Change And Greenhouse Gas Emissions".
4. The recommended preferred alternative is the Blue Alternative. This alternative would run north on existing US 113 alignment and diverge eastward at a new interchange south of Parker Road. The bypass would run on the eastern side of the towns of Frankford and Dagsboro before spanning the Indian River near the mouth of Swan Creek. The bypass would continue northwesterly spanning Swan Creek and Cow Branch before tying back into US 113 north of Millsboro at Patriots Way. While impacts to other natural and built environments are similar to other build

alternatives, the impacts to wetlands, streams, as well as rare, threatened and endangered species habitat for the preferred alternative are relatively significant. Compared to all other alternatives the Blue alternative has the second highest impacts to wetlands (30.8 acres, alternatives ranged from 24.9 to 31.3 acres), second highest impacts to streams (19,246 linear feet, alternatives ranged from 14,376 to 22,453 linear feet) and second highest for rare, threatened and endangered species habitat (485 acres, alternative ranged from 199 to 502 acres). The DEIS should provide additional information that would support the Least Environmentally Damaging Practicable Alternative (LEDPA) analysis required by Section 404 of the Clean Water Act, specifically Section 404(b)(1) guidelines. The EPA believes this documentation is necessary to determine if the Blue (Preferred) Alternative is the LEDPA.

5. Understanding that the DEIS is primarily an early planning corridor preservation study with impact estimations at that level, it requested that further refinement to these impacts be incorporated into the NEPA documentation along with further details into the compensatory mitigation measures for the impacts to wetlands and streams. The Final EIS should indicate if additional NEPA documentation is anticipated as the project moves to more detailed study. The EPA recommends coordinated involvement of stakeholders as alternatives advance into a more detailed design and applications are pursued.
6. EPA also recommends that stormwater management measures be incorporated early in the design phase in order to take advantage of the site's stormwater low impact potential.

EPA appreciates the DelDOT's efforts of early coordination in the development of the DEIS and looks forward to continued cooperation in the development of the Final Environmental Impact Statement. If you have any questions regarding our concerns, please feel free to contact me or Mr. Kevin Magerr at (215) 814-5724.

Sincerely,



Barbara Rudnick
NEPA Team Leader
Office of Environmental Programs



National Environmental Policy Act (NEPA)

You are here: [EPA Home](#) [Compliance and Enforcement](#) [National Environmental Policy Act \(NEPA\)](#) [EPA Comments on Environmental Impact Statements \(EISs\)](#) [EIS Rating System Criteria](#)

Environmental Impact Statement (EIS) Rating System Criteria

EPA has developed a set of criteria for rating draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft EIS.

[Rating the Environmental Impact of the Action](#)

[Rating the Adequacy of the Draft Environmental Impact Statement \(EIS\)](#)

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

LO (Lack of Objections) The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.

EC (Environmental Concerns) The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.

EO (Environmental Objections) The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental Objections can include situations:

1. *Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;*
2. *Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;*
3. *Where there is a violation of an EPA policy declaration;*
4. *Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or*
5. *Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.*

EU (Environmentally Unsatisfactory) The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:

1. *The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;*
2. *There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or*
3. *The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.*

RATING THE ADEQUACY OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIS)

1. **(Adequate)** The draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
2. **(Insufficient Information)** The draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the final EIS.
3. **(Inadequate)** The draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS.